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Intellectual Property Law Department
Schlumberger-Doll Research
Old Quarry Road
Ridgefield CT 06877-4108

Paper No 10

In re Application of
Bruce W. Boyle et al.
Application No. 09/881,333
Filed: June 14, 2001
For: LOW-LOSS INDUCTIVE COUPLERS
FOR USE IN WIRED PIPE STRINGS

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicants' petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO), on May 19, 2003.

The petition is **DENIED**.

A review of the file record indicates that an Office action was mailed to applicants on September 16, 2002. Since a response was not timely filed, the application was held to be abandoned, and a Notice to that effect was mailed on May 2, 2003.

The petition includes a copy of the previously filed response. Applicants submit a returned postcard identifying the amendment; however, the postcard bears a USPTO Mail Room receipt date of October 21, 2002. This is unacceptable evidence of a timely filed response since the one-month shortened period for response expired on October 16, 2002 and the response did not include a petition for a one-month extension of time.

Applicants submit, along with the copy of the postcard, the response showing a Certificate of Mailing executed on October 16, 2002.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must include the following requirements:

- (1) A copy of a response bearing a signed Certificate of Mailing which includes the date of signing; and
- (2) A statement attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

The petition does not include a statement under 37 CFR 1.8(b)(3) from John L. Lee attesting to the personal knowledge of mailing the response on the date indicated on the certificate

However, such statement in this case will not overcome the deficiency of amendment since as applicant has admitted, the amendment was noted to be a DRAFT amendment and therefore could not in any case be considered to be a formal amendment proper to enter.

Further review of the petition indicates that applicant sent a second response on February 28, 2003 with an Auto-Reply Facsimile Transmission. This is unacceptable evidence of a timely filed response since the one-month shortened statutory period for response expired on October 16, 2002 and the response did not include a petition for an extension of time.

Since applicants' petition to withdraw the Holding of Abandonment will not be granted applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: **(1)** the required reply (unless previously filed), which

may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is \$110. The fee for a petition under the unintentional standard is \$1,300. If applicants have, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

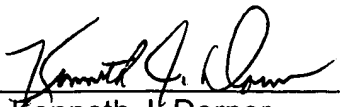
The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By Hand: Crystal Plaza 4, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."



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